

HUMAN SERVICES BOARD

## INTRODUCTION

## DISCUSSION

The facts necessary to dispose of the matter are not in dispute. The petitioner is disabled and lives alone. Until January 2000, the petitioner received personal care services provided by the Visiting Nurse Agency (VNA) in his area. These services were contracted and paid for by DAD through the Medicaid Waiver Program. In or around January 2000, the VNA terminated services to the petitioner, apparently because of complaints about the petitioner from the individual service providers in the petitioner's home.

The petitioner filed an appeal with the Board on February 10, 2000. On a form returned to the Board on February 22, 2000, the petitioner indicated that the issue in his appeal was "abuse" he was allegedly subjected to by employees of the VNA.

The hearing was postponed for several months at the request of the petitioner because of health problems he was having. Eventually, a phone hearing was arranged at the petitioner's request on July 10, 2000. At that time the petitioner indicated that he was not seeking a restoration of any services, but he alleged (mistakenly it turned out) that he was being held financially responsible by the VNA for services they had not provided. At that time DAD agreed to provide the petitioner with copies of documents pertaining to DAD's review of the petitioner's complaints regarding the services that had (or had not) been provided by VNA under the Medicaid Waiver Program. The parties agreed that the matter would be continued pending the petitioner's review of those documents.

A hearing was reconvened by phone on September 5, 2000. At that time the petitioner admitted that he, personally, was not being, and would not be, billed for any of the services in question. He stated that the basis of his appeal was that the VNA had falsely billed DAD for services that weren't, in fact, provided to him. DAD represented that it had investigated the

petitioner's complaints and had found them to be unsubstantiated. The petitioner does not accept this conclusion and indicated he wants the Board to investigate his complaints further.

ORDER

The petitioner's appeal is dismissed for lack of standing and lack of subject matter jurisdiction.

REASONS

3 V.S.A. § 3091(a) provides as follows:

An applicant for or a recipient of assistance, benefits or social services from . . . the department of aging and disabilities . . . or an applicant for a license, may file a request for a fair hearing with the human services board. An opportunity for a fair hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits or services is denied, or not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his or her receipt of assistance, benefits, or services, or license of license application; or because the individual is aggrieved by agency policy as it affects his or her situation.

In this case the petitioner is not alleging that DAD is denying or delaying any benefits or services to him. Furthermore he does not allege that he is personally affected by VNA's billing practices. He simply disagrees with DAD's conclusion that the VNA did not overbill or falsely bill that

department for services rendered to the petitioner prior to January, 2000. Under the above statute, this is an insufficient basis to confer standing upon the petitioner to seek redress from the Board. Under the statute, the Board lacks jurisdiction to review DAD's supervision of a contracting agency when that review does not directly affect any benefits or services being provided to or sought by an aggrieved individual.<sup>1</sup>

# # #

---

<sup>1</sup> At the hearing the petitioner was advised that he should take his concerns to the Office of the Governor.